



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/762,754

01/22/2004

Behrouz Poustchi

3655/0275PUS2

5581

47827

7590

12/23/2009

MG-IP Law, PLLC

PO BOX 1364

FAIRFAX, VA 22038-1364

EXAMINER

GAUTHIER, GERALD

ART UNIT

PAPER NUMBER

2614

MAIL DATE

DELIVERY MODE

12/23/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/762,754	POUSTCHI ET AL.	
	Examiner	Art Unit	
	Gerald Gauthier	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 13 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 12-38 and 42-57 is/are rejected.
- 7) ☒ Claim(s) 9-11 and 39-41 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-8, 12-38 and 42-57** are rejected under 35 U.S.C. 102(b) as being anticipated by Rogers et al. (US 5,946,386).

Regarding **claim 1**, Rogers discloses a network device [Call management 101 on FIG. 1] adapted to process a call between the network device and a first other network device [System user 113 on FIG. 1, column 3, line 66 to column 4, line 5], the network device comprising:

a user interface [Call management Window 115 on FIG. 1] adapted to receive a user input requesting a call transfer to a second [Destination coupled to the PSTN 118-120 on FIG. 1] other network device [Call management computer 101 monitors for the system users 111 or 113 to identify selection of a command from the user's call management window 115 to change the call's state, column 13, lines 4-19]; and

a call transfer function responsive to the user input to deliver call transfer functionality by; upon receipt of the user input [The "Transfer" function is used to cause a received call to be transferred to another destination either inside the business 99 or to any destination coupled to the PSTN 100, column 13, lines 13-19]:

initiating a connection from the network device to the second other network device [the call management computer 101 establishes a new voice pathway to the destination wherever it may be, column 13, lines 33-39].

sending a first message to the first other network device containing a reference to the second other network device [instructs the appropriate switches 204 to connect the voice pathways together 221 and controls the trunk interface 103, 106 and the DSP 108 to monitor the progress of the call, searching for hang up or change of state at either end, column 13, lines 33-39].

Regarding **claims 2, 15, 23, 28, 33, 45, 49 and 53**, Rogers discloses a network device wherein the call transfer function is further adapted to, upon receipt of the input: send a second message to the first other network device to place the call on hold [column 14, lines 1-14].

Regarding **claims 3, 16, 24 and 29**, Rogers discloses a network device comprising a call processing module adapted to process the call, the call processing module comprising the call transfer function [column 13, lines 12-39].

Regarding **claims 4, 17, 25, 30, 34 and 52**, Rogers discloses a network device wherein the first message contains a reference to the connection [column 13, lines 12-39].

Regarding **claims 5, 18, 26, 31 and 35**, Rogers discloses a network device wherein the call transfer function is adapted to send the second message after a user at the network device hangs up or presses a transfer key [column 14, lines 33-43].

Regarding **claims 6, 19, 36 and 46**, Rogers discloses a network device wherein the call processing module is adapted to terminate the call upon receiving a message from the first other network device, which represents that the first other network device has established a media path with the second other network device [column 13, lines 45-57].

Regarding **claims 7, 20, 37 and 47**, Rogers discloses a network device wherein the call processing module is adapted to send the first message before or after a media path is established with the second other network device [column 13, lines 45-57].

Regarding **claims 8, 21, 38 and 48**, Rogers discloses a network device wherein the first message is sent upon receipt of a response from the second other network device and wherein upon receipt of the response from the second network device, and prior to sending the first message to the first other network device containing a reference to the connection, the call processing module is adapted to establish a media path between the network device and the second other network device [column 13, lines 45-57].

Regarding **claims 12 and 42**, Rogers discloses a network device wherein the network device is one of a telephone, a video phone, a PDA, a soft phone, a wireless device, a wireless telephone, and a cell phone [column 13, lines 12-19].

Regarding **claims 13, 43, 50 and 54**, Rogers discloses a network device wherein the network device is a VoIP telephone [column 14, lines 15-23].

Regarding **claim 14**, Rogers discloses all the limitations of claim 14 as stated in claim 1's rejection above.

Regarding **claim 22**, Rogers discloses all the limitations of claim 22, as stated in claim 1's rejection above.

Regarding **claim 27**, Rogers discloses all the limitations of claim 27 as stated in claim 1's rejection above.

Furthermore, Rogers discloses a plurality of network devices [113, 118-120 on FIG.1].

Regarding **claim 32**, Rogers discloses all the limitations of claim 32 as stated in claim 1's rejection above.

Furthermore, Rogers discloses an article of manufacture [Call management computer 101 is configured and programmed to appear to telephone service providers 103 as though it is a business PBX or other business telephone switch and/or an Internet or other data server or node, column 7, lines 44-47].

Regarding **claim 44**, Rogers discloses all the limitations of claim 44 as stated in claim 1's rejection above.

Furthermore, Rogers discloses an article of manufacture [Call management computer 101 is configured and programmed to appear to telephone service providers 103 as though it is a business PBX or

other business telephone switch and/or an Internet or other data server or node, column 7, lines 44-47].

Regarding **claim 51**, Rogers discloses all the limitations of claim 51 as stated in claim 1's rejection above.

Furthermore, Rogers discloses an article of manufacture [Call management computer 101 is configured and programmed to appear to telephone service providers 103 as though it is a business PBX or other business telephone switch and/or an Internet or other data server or node, column 7, lines 44-47].

Regarding **claim 55**, Rogers discloses all the limitations of claim 55 as stated in claim 1's rejection above.

Regarding **claim 56**, Rogers discloses all the limitations of claim 56 as stated in claim 1's rejection above.

Regarding **claim 57**, Rogers discloses all the limitations of claim 57 as stated in claim 1's rejection above.

Allowable Subject Matter

3. **Claims 9-11 and 39-41** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

4. Applicant's arguments filed October 13, 2009 have been fully considered but they are not persuasive. The applicant argues:

The Office Action appears to interpret Rogers' call management computer 101 and Rogers' user workstation computer 114 as the claimed "network device." It is respectfully submitted that neither of these elements of Rogers satisfy all limitations of claim 1. Moreover, it is respectfully submitted that there is no basis for treating call management computer 101 and user workstation computer 114 as a single "network device." If the rejection of claim 1 is not withdrawn, it is respectfully requested that the examiner identify the element of Rogers that is believed to correspond to the recited "network device" so that the basis for this rejection will be apparent from the record. If the examiner is somehow interpreting two discrete elements of Rogers as satisfying the network device limitation of claim 1, it is respectfully requested that the examiner confirm this interpretation and provide a legal basis for such an interpretation. If the examiner is interpreting call management computer 101 as the "network device," it is respectfully submitted that this element lacks a user interface adapted to receive user

Art Unit: 2614

input to deliver call transfer functionality as recited in claim 1. Even the Office Action refers to the user's workstation 114 as the device that includes a user input. Call management computer 101 does not include a user interface as recited in claim 1, and claim 1 patentably distinguishes over Rogers under this interpretation. If the examiner maintains the rejection of claim 1 using this interpretation of Rogers, it is respectfully requested that the examiner explain how call management computer 101 is being interpreted to include a user interface as claimed.

If the examiner in interpreting user workstation 114 as corresponding to the recited network device, it is respectfully submitted that the user workstation 114 does not send a first message to a first other network device containing a reference to a second other network device as recited in claim 1. The Office Action indicates that this limitation is disclosed at column 13, lines 33-39 of Rogers. However, those lines of Rogers describe voice pathways established by call management computer 101, not by the user workstation 114. Claim 1 is submitted to distinguish over Rogers under this interpretation of Rogers as well. If the examiner maintains the rejection of claim 1 based on this interpretation of Rogers, it is respectfully requested that the examiner explain how workstation 114 sends a first message to a first other network device containing a reference to a second other network device as recited in claim 1.

Moreover, under either interpretation of Rogers, no element of Rogers includes a call transfer function adapted to send a first message to a first other network device containing a reference to a second other network device. Assume for example that Rogers' user workstation 114 is connected via call management computer 101 to a first

Art Unit: 2614

telephone A and that the user at workstation 114 wishes to transfer the call to a second telephone B. Rogers's call management computer "instructs switches 204 to disconnect the voice path 122, instructs the appropriate trunk interface 206 to 'hang up' the call to the user and instructs the DSP 208 to return to call monitoring (column 13, lines 20-27)."

Call management computer 101 also establishes a new voice pathway to the destination, wherever it may be (column 13, lines 33-35). In the above example, the call management computer would have to establish a voice pathway to telephone B.

However, nothing in the above description shows how call management computer 101 sends a message to the first other network device (telephone A) containing a reference to the second other network device (telephone B). Claim 1 further distinguishes over

If the rejection of claim 1 is maintained, it is respectfully requested that the examiner explain how the cited portion of Rogers, describing connections made by call management computer 101, are believed to support the above rejection and identify the signal that is being sent and how that signal comprises a "first message to the first other network device containing a reference to the second other network device" so that the basis for this rejection will be clear from the record.

The examiner respectfully disagrees.

As reinstated on the claim 1's rejection all the claims limitations are included in the rejection as requested by the applicant. Therefore the rejection is maintained.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2614

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gerald Gauthier/
Primary Examiner, Art Unit 2614

GG
December 24, 2009